

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LAURA MCKNIGHT, TRISHA
TURNER, ANDREW BAKER,
RACHAEL FREEDMAN, KIMBERLY
MCCRAY, and MARGO MORENO
Plaintiffs,

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V.

* Civil Action No. H-09-3345
*

D. HOUSTON, INC. D/B/A
TREASURES, A.H.D. HOUSTON,
INC. D/B/A CENTERFOLDS,
D.N.W. HOUSTON, INC. D/B/A
GOLD CUP, D. RANKIN, INC.
D/B/A TROPHY CLUB, D WG FM,
INC. D/B/A SPLENDOR,
W.L. YORK, INC. D/B/A
COVER GIRLS, AND, IN THEIR
INDIVIDUAL CAPACITIES, ALI
DAVARI and HASSAN DAVARI
Defendants.

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* Jury Trial Demanded
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REPORTER'S CERTIFICATION
FOR THE ORAL DEPOSITION OF
ANDREW BAKER
MAY 11, 2010

ORAL DEPOSITION OF ANDREW BAKER, produced as a witness
at the instance of the Defendants and duly sworn was taken
in the above-styled and numbered case on the 11th day of
May, 2010, from 10:09 a.m. to 11:52 a.m., before Rita
Frangullie, Certified Shorthand Reporter in and for the
State of Texas, reported by machine shorthand at the
offices of SHELLIST, LAZARZ, LLP, 3D/International Tower,
1900 West Loop South, Suite 1910, Houston, Texas 77027
pursuant to the Texas Rules of Civil Procedure and the
provisions stated on the record or attached hereto.

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1 INDEX

2	Appearances.....	2
3	ANDREW BAKER	
4	Examination by Mr. Albert Thomas Van Huff.....	5
5	Examination by Mr. Martin A. Shellist.....	46
6	Further Examination by Mr. Albert Thomas Van Huff.....	52
7	Witness Correction and Signature Page.....	56
8	Reporter's Certificate.....	58

9 EXHIBITS

10	NO. DESCRIPTION	PAGE
11	1 Declaration of Andrew Baker.....	35

1 ANDREW BAKER,

2 having been duly sworn, was examined and testified as
 3 follows:

4 EXAMINATION

5 QUESTIONS BY MR. VAN HUFF:

6 (10:09 a.m.)

7 Q. Good morning, Mr. Baker. Would you please state
 8 your name for the record?

9 A. Andrew Wayne Baker.

10 MR. SHELLIST: Before we start, do you want
 11 to do to stipulations or the agreements?

12 MR. VAN HUFF: What would you like to
 13 stipulate to?

14 MR. SHELLIST: That per the Rules the
 15 deposition is being taken and that we're going to reserve
 16 all objections except to the form and responsiveness till
 17 the time of trial.

18 MR. VAN HUFF: So stipulated.

19 Q. (By Mr. Van Huff) Have you ever given a
 20 deposition before?

21 A. No, sir.

22 Q. Okay. What we have here is a situation where
 23 you're under oath to tell the truth. We got a court
 24 reporter who is going to type down all the questions that
 25 I ask and your answers to the questions, and the questions

1 and answers can be used in court as though you were giving
 2 testimony in front of a jury. I don't expect that we're
 3 going to be here for very long today, and it's a fairly
 4 straightforward process. It's important, however, since
 5 she's typing in our questions and answers that when you
 6 answer "yes" or "no" that you actually say yes or no
 7 rather than go "uh-huh" or "huh-uh" or nod your head.

8 A. Yes, sir.

9 Q. Okay. And it's also important that we not talk
 10 over each other. This isn't quite like a normal
 11 conversation since she's taking everything down and, so,
 12 I'd appreciate it if you would let me complete my question
 13 before you give your answer and sometimes it's a little
 14 bit awkward because you can anticipate the end of my
 15 question but we still need to let the court reporter type
 16 it in and then type in your answer without us talking over
 17 one another, okay?

18 A. Yeah, no problem.

19 Q. All right. And one other sort of introductory
 20 issue. If I ask you a question, I'm going to assume that
 21 you understand it and the Court will assume that you
 22 understand it unless you indicate to me otherwise, okay?

23 A. That's agreed, yeah.

24 Q. And if you need me to explain something or you
 25 have a question about the question that I asked, just ask

Page 6

1 away, okay. You know, I'm not here today to be
 2 Mr. Difficult lawyer. I just have some questions to ask
 3 you about your lawsuit and then we can complete the
 4 deposition, okay?
 5 A. I agree.
 6 Q. Now, I'm here on behalf and represent all the
 7 defendants in this case of which there are eight, all
 8 right, six different clubs and two individuals and I've
 9 got your answers to interrogatories here and I've got your
 10 Declaration here that you signed and attached to something
 11 called a Motion for Notice To Class Members, all right?
 12 Initially what's your current address?
 13 A. It's 565 South Mason Road No. 178, Katy, Texas
 14 77450.
 15 Q. And your driver's license number?
 16 A. 11247890, Texas.
 17 Q. Where are you currently employed?
 18 A. I work for Physicians Mutual.
 19 Q. What's your position with them?
 20 A. Insurance agent.
 21 Q. How long have you worked for them?
 22 A. About three months.
 23 Q. Do you have some kind of license from the state
 24 of Texas to do insurance work?
 25 A. Yes, sir.

Page 7

1 Q. What kind of license is that?
 2 A. It's a -- I forget the name of it -- but it's
 3 their insurance license. Group One I think it's called.
 4 Q. Is that the type of license you need to sell
 5 property and casualty insurance?
 6 A. No. It's health and life.
 7 Q. Health and life. Okay.
 8 And how long have you had that license?
 9 A. About three months.
 10 Q. Do you have any other licenses or certifications
 11 through the state of Texas?
 12 A. No.
 13 Q. Were you ever server trained in connection with
 14 your employment as a bartender?
 15 A. Oh, yes, I have server training, TABC training.
 16 Q. Any others besides the insurance and the server
 17 training?
 18 A. No, sir.
 19 Q. Have you ever been involved in a lawsuit before
 20 as a plaintiff or a defendant?
 21 A. Yes, sir.
 22 Q. How many times?
 23 A. Maybe two or three.
 24 Q. Okay. What was the most recent one?
 25 A. I'm going through a divorce right now.

Page 8

1 Q. Okay. Is that here in Harris County?
 2 A. Yes, sir.
 3 Q. And the one before that?
 4 A. It was my previous divorce.
 5 Q. Okay. Where was that?
 6 A. Harris County.
 7 Q. The one before that?
 8 A. I had a DUI.
 9 Q. Okay. Other than your DUI, have you ever been
 10 arrested?
 11 A. No, sir.
 12 Q. Now, I'm going to talk to you a little bit about
 13 your employment with some of the different clubs that are
 14 involved as defendants in this case, okay?
 15 A. Yes, sir.
 16 Q. Now, I see in your interrogatory answers that you
 17 claim that you were employed by Treasures; and it says
 18 here that your dates of employment were approximately
 19 June, 1995 to April of 2006; is that correct?
 20 A. Yes, sir.
 21 Q. Now, I noticed that in your interrogatory answers
 22 you say that it was April of 2006, was the end of your --
 23 approximate end of your employment with Treasures but in
 24 your Declaration you say that it was April of 2007 and I
 25 recognize that this is probably something we call a

Page 9

1 Scrivener's Error but I need to clear it up so that I know
 2 once and for all for the record when you stopped working
 3 for Treasures. Was it in 2007, or was it in 2006?
 4 A. '07.
 5 Q. April of 2007?
 6 A. Yes, sir.
 7 Q. You're sure?
 8 A. (Witness nods head affirmatively.)
 9 Q. So, your answer to Interrogatory No. 2 needs to
 10 be amended and your answer to Interrogatory No. 3 needs to
 11 be amended. Okay. I thought we would straighten that up.
 12 What was your job at Treasures?
 13 A. I was a bartender.
 14 Q. What were your job duties as a bartender at
 15 Treasures?
 16 A. Basically, you know, obviously making all the
 17 drinks and handling all the cash for the club, processing
 18 credit cards and all the paperwork assorted with that.
 19 Q. Okay. Can you explain to me the
 20 interrelationship between the bartender at Treasures and
 21 the waitresses at Treasures as far as the tabs and
 22 handling of cash that you mentioned?
 23 A. Yeah. They just -- I mean, our relationship was,
 24 you know, they had to come to us to have anything, you
 25 know, to make the drinks and to run the credit cards.

Page 10

1 Q. Okay. Can you -- assume that I know nothing
2 about it; and explain it to me, please.
3 A. Well, their customer would give them a credit
4 card for the purchases; and they would fill out all the
5 paperwork, bring it to me. I would actually run it
6 through the machine itself and give her back any of the,
7 you know, the slips for the customer to sign.
8 Q. Okay. Now, if it was -- so, a customer that's
9 seated away from the bar who is being served by a waiter
10 or waitress, are they -- who keeps track of the number of
11 drinks that that person served?
12 A. The waitress.
13 Q. Okay. And so when the waitress comes to the bar
14 in order to get a drink refill, does the bar also keep
15 track of how many drinks that waitress has given for that
16 particular customer?
17 A. No, sir.
18 Q. So, the bartender completely relies upon the
19 waitresses to keep track of the number of drinks that a
20 particular customer is consuming at a table?
21 A. Yes, sir.
22 Q. All right. How were you paid at Treasures?
23 Were you paid an hourly wage?
24 A. I specifically was paid a shift pay.
25 Q. Okay. Can you explain that to me?

Page 11

1 A. It was \$30 a shift.
2 Q. All right. And how many hours was a shift?
3 A. Anywhere from eight, eight and a half to ten, ten
4 and a half.
5 Q. Okay. And how many shifts would you work per
6 week?
7 A. Five.
8 Q. Were you ever employed by Centerfolds?
9 A. Yes, sir.
10 Q. When was the last date of your employment with
11 Centerfolds?
12 A. It was in the beginning of 2000 and the end of
13 1999.
14 Q. Okay. So, the last time you did any work at
15 Centerfolds was either 1999 or 2000?
16 A. Right. I think it was December -- it was right
17 at the turn of the Millennium there. It was right at
18 December of '99 I believe.
19 Q. Many years ago?
20 A. Many years ago.
21 Q. Were you ever employed by Gold Cup?
22 A. No, sir.
23 Q. Were you ever employed by Trophy Club?
24 A. No, sir.
25 Q. Were you ever employed by Splendor?

Page 12

1 A. I filled in over there one day.
2 Q. When?
3 A. I'm not sure of the particular day. I don't know
4 the exact day. Somebody called in sick, and I had to go
5 in over there.
6 Q. Would that have been prior to 2005?
7 A. I think it was in 2005.
8 Q. Were you ever employed by Cover Girls?
9 A. No, sir.
10 Q. Back to Splendor for a moment. That one day in
11 2005 that you filled in for a bartender that called in
12 sick, was that the only time that you were employed by
13 Splendor?
14 A. Yes.
15 Q. Now, I notice that in your interrogatory answer
16 you state that you had occasion to work at Centerfolds in
17 addition to Treasures and that in your Declaration you
18 state that you had occasion to work for Centerfolds and
19 for Splendor in addition to working for Treasures. So,
20 the fact that Splendor is not mentioned in your
21 interrogatory answers is another oversight, right?
22 A. Correct.
23 Q. Okay. And this issue of having worked at
24 Centerfolds in both your Declaration and your
25 interrogatory answer, that's also incorrect, yes?

Page 13

1 A. I'm not sure exactly what you're asking.
2 Q. Well, you just told me under oath that you were
3 never employed by Centerfolds; but it says in your
4 interrogatory answers and in your Declaration that you
5 worked at Centerfolds. So --
6 A. Did it say "Centerfolds"?
7 Q. Centerfolds.
8 A. Did I say I was not employed there?
9 Q. I asked you if you were employed by Centerfolds
10 and you said no.
11 A. That's incorrect. I did --
12 Q. That's okay. We can fix it up.
13 A. Yeah.
14 Q. I'm just trying to figure out --
15 A. That's incorrect. --
16 Q. -- the truth?
17 A. I did work at Centerfolds. I was thinking Cover
18 Girls.
19 Q. Okay. So, you worked at Treasures until April of
20 2007?
21 A. Yes, sir.
22 Q. You had one occasion to work at Splendor back in
23 2005 to fill in for a bartender, yes?
24 A. Yes, sir.
25 Q. And you also had occasion to work for

Page 14

1 Centerfolds?
 2 A. Well, I worked at Centerfolds prior to Treasures.
 3 Q. I see. When was that?
 4 A. I started in '95 all the way up until '99 of --
 5 December of '99.
 6 Q. Okay. Did you ever have occasion to work at
 7 Centerfolds after 1999?
 8 A. No, sir.
 9 Q. When you worked at Centerfolds, you worked there
 10 as a bartender, correct?
 11 A. Correct.
 12 Q. And were you also paid shift pay?
 13 A. Correct.
 14 Q. You are one of six plaintiffs listed thus far in
 15 this lawsuit. Are you aware of that?
 16 A. Yes, sir.
 17 Q. Do you know Laura McKnight? Do you know her, I
 18 mean?
 19 A. Yes, sir.
 20 Q. How do you know her?
 21 A. She was a waitress, and I was a bartender. We
 22 were coworkers.
 23 Q. Do you know Trisha Turner?
 24 A. I do.
 25 Q. How do you know her?

Page 15

1 A. She was a fellow bartender.
 2 Q. Rachel Friedman?
 3 A. I'm not -- she might have been an entertainer.
 4 I'm not familiar with that...
 5 Q. Kimberly McCray?
 6 A. I'm not sure of her name.
 7 Q. Margo Moreno?
 8 A. Yeah, she was a waitress.
 9 Q. Have you ever talked to Ms. McKnight about this
 10 lawsuit?
 11 A. Yes, sir.
 12 Q. When was the first time you talked to her about
 13 it?
 14 A. A little over a year ago when -- before we
 15 started doing this.
 16 Q. Okay. I'm going to ask you some questions about
 17 conversations between you and McKnight, you and Trisha
 18 Turner and you Margo Moreno about this lawsuit but during
 19 the course of me asking you those questions, I don't want
 20 you to get into anything that you talked about with your
 21 lawyer directly, okay?
 22 A. Okay.
 23 Q. I just want to throw that caveat in there because
 24 I don't want you to accidentally start telling me about
 25 conversations you had with your lawyer because that's

Page 16

1 confidential. Under the Rules I'm not supposed to ask
 2 about it, and I don't want to hear about it anyway.
 3 So, a year ago when you and Ms. McKnight
 4 first talked about this lawsuit, what exactly did y'all
 5 talk about?
 6 A. She just asked me if I was interested in pursuing
 7 this.
 8 Q. Okay. Did she contact you, or did you contact
 9 her?
 10 A. She contacted me.
 11 Q. How did she contact you?
 12 A. Telephone.
 13 Q. Prior to that conversation, when was the last
 14 time that you had talked to her?
 15 A. One of the nights that we worked together.
 16 Q. Which would have been at least a year beforehand?
 17 A. Right.
 18 Q. All right. So, she just reached out to you and
 19 told you -- what did she tell you about the lawsuit?
 20 A. She just asked me if I'd be interested in getting
 21 involved.
 22 Q. Did she tell you what the lawsuit was about?
 23 A. Not exactly. She just was pursuing it.
 24 Q. She just said --
 25 A. Can I talk to my lawyer?

Page 17

1 Q. -- "I'm going to pursue a lawsuit against
 2 Treasures and would you like to call my lawyer and talk to
 3 him about it?"
 4 A. Exactly.
 5 Q. Okay. Since then, have you had any other
 6 conversations with Ms. McKnight?
 7 A. Just couple telephone, you know, just, "How's it
 8 going," stuff like that.
 9 Q. Have you talked about the lawsuit?
 10 A. No.
 11 Q. What about Trish Turner?
 12 A. I haven't talked to her.
 13 Q. You just know who she was because y'all worked
 14 together?
 15 A. Right.
 16 Q. Margo Moreno?
 17 A. I haven't talked to her either.
 18 Q. So, is it safe to say that if Ms. McKnight hadn't
 19 reached out to you about this lawsuit you probably
 20 wouldn't know about it?
 21 MR. SHELLIST: I'm going to object to the
 22 form, but you can answer it to the extent you can.
 23 A. It's safe to say that, yeah.
 24 Q. (By Mr. Van Huff) Why did you decide to pursue a
 25 lawsuit against these clubs and individuals?

Page 18

1 A. I was asked if I could help a friend out, and I
2 agreed.
3 Q. What's the basis for your claim against these
4 nightclubs?
5 MR. SHELLIST: Object to the form, but you
6 can answer the question.
7 A. It's my wage discrepancy and my...
8 MR. SHELLIST: However you can explain it,
9 you can explain.
10 Q. (By Mr. Van Huff) Just in your own mind. It's
11 not meant to be a trick question. I'm going to go over
12 what the lawsuit says shortly. I'm just wondering, you
13 know, as we sit here without going over the paperwork, you
14 know, what was it about your employment with these clubs
15 that causes you to think you have a claim against them?
16 A. The money they took out of our credit card tips
17 and our wage discrepancies.
18 Q. Is that all?
19 A. Yeah.
20 Q. What do you mean by "wage discrepancy"?
21 A. No overtime pay, less than minimum wage.
22 Q. In addition to your shift pay, were you also paid
23 tips?
24 A. Yes.
25 Q. When you combine your shift pay with the tips

Page 19

1 that you received, would the aggregate be above what
2 minimum wage was at that time?
3 A. Yes.
4 Q. In fact, would it also be above time and a half
5 or 2.17 an hour?
6 A. It's possible. I'm not sure; but, yes.
7 Q. On an average shift how much would you make in
8 tips?
9 A. Anywhere from 150, 175.
10 Q. And what percentage of that would be cash?
11 A. A hundred percent of it.
12 Q. Did you report those cash tips to the IRS as
13 income?
14 A. Yes.
15 Q. A hundred percent of it?
16 A. I did, yes, sir.
17 Q. When you say it was paid to you a hundred percent
18 in cash, is that because the credit card tips were
19 converted to cash and then paid to you on a per shift
20 basis?
21 A. Yes.
22 Q. What percentage of the transactions that
23 customers actually made with the club for drinks were cash
24 transactions as compared to credit card transactions?
25 A. I'm not sure of the exact percentage ;but I would

Page 20

1 guess around 90 percent, 85 to 90 percent.
2 Q. You acknowledge that you were paid a hundred
3 percent of the tips due you in cash at the end of each of
4 your shifts, correct?
5 A. Well, all of my tips were paid in cash a hundred
6 percent.
7 Q. At the end of your shift?
8 A. At the end of my shift.
9 Q. Okay. The day that you worked for Splendor in
10 2005, do you allege that you were subjected to any
11 improper employment practices at Splendor on that day?
12 A. It was just business as usual. It's the same
13 thing I did at Treasures.
14 Q. So, that day you bartended for one day, how long
15 was the shift, do you remember?
16 A. It was about eight and a half hours.
17 Q. Okay. You got paid \$30 shift pay, yes?
18 A. Yes, sir.
19 Q. And then at the end of the shift, 100 percent of
20 the tips that you were entitled to were paid to you in
21 cash?
22 MR. SHELLIST: Object to the form.
23 You can answer.
24 Q. (By Mr. Van Huff) Correct?
25 A. All of my tips were a hundred percent cash, yeah.

Page 21

1 Q. No, I'm just talking about the day that you
2 worked at Splendor.
3 A. Right.
4 Q. At the end of the shift, the tips that you were
5 entitled to for that day at Splendor were paid to you in
6 cash, right?
7 A. Right.
8 Q. Okay. So, am I correct in thinking that the
9 employment practices that you individually are complaining
10 about in this lawsuit are employment practices regarding
11 your work at Treasures?
12 A. Correct.
13 Q. Because Centerfolds was a long, long time ago?
14 A. Right.
15 Q. Never worked at Gold Cup, right?
16 A. No, sir.
17 Q. I mean, I'm correct when I say that you never
18 worked at Gold Cup?
19 A. Yeah, that's correct.
20 Q. And you never worked at Trophy Club?
21 A. I never worked at Trophy Club.
22 Q. Never worked at Cover Girls?
23 A. Never worked at Cover Girls.
24 Q. Splendor in addition to being a long time ago was
25 one day, and you don't perceive anything improper as

Page 22

1 happening?
 2 A. Right.
 3 Q. All right. Now, other than the wage discrepancy
 4 issue that we've covered, you also talked about money that
 5 was -- you said "money taken out of credit card tips."
 6 A. Yes, sir.
 7 Q. Can you explain that, please, why you're
 8 complaining about that?
 9 A. 5 percent out of every credit card tip was kept
 10 by the house.
 11 Q. Okay. And so, am I to understand the heart of
 12 your claim is that something was unlawful about that 5
 13 percent?
 14 A. You'd have to ask my lawyer about that because
 15 that's a legal issue.
 16 Q. Okay. What is it about the facts that actually
 17 happened other than they took out 5 percent that you think
 18 was unlawful?
 19 MR. SHELLIST: Object to the form but you can
 20 answer it to the extent you can.
 21 Q. (By Mr. Van Huff) If you don't understand it or
 22 you can't answer it, that's an acceptable answer, too.
 23 A. Yeah, I don't understand.
 24 Q. Okay. There's an allegation in this lawsuit that
 25 these six clubs are called or are joint employers. What

Page 23

1 facts are you aware of that support that allegation?
 2 MR. SHELLIST: Object to the form but you can
 3 answer it.
 4 A. They're all owned by the same person or persons.
 5 Q. (By Mr. Van Huff) So, your testimony is that
 6 it's your understanding that these six clubs are all owned
 7 by the same person or persons?
 8 A. Yes, sir.
 9 Q. What is your understanding of the ownership of
 10 these clubs? Who owns them?
 11 A. George and David Davari.
 12 Q. Other than that what other facts are you aware of
 13 that support your allegation that these clubs are joint
 14 employers?
 15 MR. SHELLIST: Same objection. But you can
 16 answer and by the way, when I object, it's just for the
 17 record. I didn't tell you this beforehand but it's not
 18 meant to interfere with the process but I need to do that
 19 just for the record but you can answer the question.
 20 A. Repeat the question again.
 21 Q. (By Mr. Van Huff) There's an allegation in this
 22 lawsuit that these six clubs are joint employers.
 23 A. Right.
 24 Q. And the question presented to you is: What facts
 25 are you aware of in support of that allegation and you

Page 24

1 said common ownership.
 2 A. Right. Common -- and the way you do things there
 3 is they're exactly the same in all the different clubs.
 4 Q. Okay. Anything else?
 5 A. Not that I can think of.
 6 Q. So, sitting here today, those are all the facts
 7 that you're aware of in support of your contention that
 8 these clubs are joint employers, correct?
 9 A. Yes, sir, correct.
 10 Q. In your experience were all the bartenders at
 11 Treasures paid shift pay?
 12 A. Not all of them.
 13 Q. Okay. Other than shift pay how were bartenders
 14 paid?
 15 A. 2.13 an hour.
 16 Q. Okay. And approximately what percentage were
 17 shift pay versus 2.13 an hour?
 18 A. I don't know that answer. I just know that at
 19 some point they quit doing the shift pay and started doing
 20 the hourly wage.
 21 Q. Okay.
 22 A. So, I don't know who was -- I can't remember
 23 exactly who was before or after.
 24 Q. Is there really any difference between 2.13 an
 25 hour and \$30 for an eight-hour shift?

Page 25

1 A. It's -- yeah.
 2 Q. Six and one and a half dozen of another, isn't
 3 it?
 4 A. Right.
 5 Q. So, am I to understand that all the bartenders
 6 are getting shift pay and then at some point it changed
 7 and the bartenders began getting paid the hourly rate?
 8 A. Yes, sir.
 9 Q. But it was -- when it was shift pay, was it a
 10 hundred percent of the bartenders got shift pay or some
 11 got shift pay and some got hourly?
 12 A. When I began my employment, everybody got shift
 13 pay.
 14 Q. And then when they changed it to hourly,
 15 everybody got hourly?
 16 A. Right, but everybody -- everybody previously
 17 employed was grandfathered in or whatever.
 18 Q. "Everybody" meaning the bartenders?
 19 A. Right.
 20 Q. To your knowledge, were the waitresses ever paid
 21 shift pay?
 22 A. Not to my knowledge.
 23 Q. And when did Treasures go from paying its
 24 bartenders shift pay to hourly?
 25 A. I don't know. I just know it happened and I

Page 26

1 didn't...

2 Q. You said that some bartenders were grandfathered
3 in. Did that mean that they continued to get shift pay?

4 A. I believe so.

5 Q. Because you got shift pay the entire time you
6 worked there, right?

7 A. Right. So, I didn't change over. I just stayed
8 the same.

9 Q. Okay. So, while you were getting paid shift pay
10 for your duties as a bartender, the waitresses were
11 getting paid 2.13 an hour?

12 A. Correct.

13 Q. Do you have -- okay. And that's how -- that was
14 your experience with Treasures, correct?

15 A. Correct.

16 Q. Do you have any knowledge at all, personal
17 knowledge, on how shift pay versus 2.13 an hour for
18 bartenders was handled at the other five clubs that are
19 defendants in this lawsuit?

20 A. No.

21 Q. A moment ago we talked about joint employer.
22 Another allegation you've made in your lawsuit is that
23 these clubs are all a single integrated business
24 enterprise. What facts are you aware of in support of
25 that allegation?

Page 27

1 A. Actually, I don't know that. You'd have to ask
2 my lawyer. I'm not sure exactly.

3 Q. Okay. So, sitting here today, you're unsure of
4 any facts in support of your allegation that these clubs
5 are a single integrated business enterprise?

6 MR. SHELLIST: Object to the form but you can
7 answer it to the extent you're able to.

8 Q. (By Mr. Van Huff) Correct?

9 A. Correct.

10 Q. You allege in your lawsuit that any cost at
11 Treasures due to credit card charges was covered through
12 fees collected by or collected from topless entertainers.
13 Are you aware that you make that allegation in your
14 lawsuit?

15 A. I'm aware.

16 Q. Okay. That the credit card transaction costs are
17 covered through fees paid by topless dancers, that's the
18 allegation. What facts are you personally aware of that
19 support that allegation?

20 A. Other than I was told that.

21 Q. Told that by who?

22 A. By the employer. That's the reason for the
23 charge.

24 Q. Would you explain what you just said, please.

25 A. "The reason that we charge extra on the credit

Page 28

1 card is to pay for the credit cards, the processing fee."

2 Q. Who exactly told you that?

3 A. Several people told me that.

4 Q. What were their names?

5 A. George Davari was one.

6 Q. When did he tell you that?

7 A. When I first became employed.

8 Q. Back in 1995?

9 A. Yes, sir.

10 Q. Who else told you that?

11 A. The managers.

12 Q. Names, please.

13 A. Mitch Cook.

14 Q. When did Mitch Cook tell you that?

15 A. Several times throughout my whole working career
16 there.

17 Q. What did he tell you exactly?

18 A. Exactly what I said. "This extra charge goes to
19 pay the processing fees."

20 Q. That the 5 percent that's withheld from your
21 credit card tips pays the processing fees, correct?

22 A. Yes, sir, correct.

23 Q. Which would be the cost of liquidating the credit
24 card tips, correct?

25 MR. SHELLIST: Object to the form but you can

Page 29

1 answer.

2 A. Correct.

3 Q. (By Mr. Van Huff) Now, the legal basis for your
4 lawsuit against Treasures is under something called the
5 Fair Labor Standards Act. It's Federal law about wage
6 practices. Is it your position that Treasures has
7 intentionally violated the FLSA in connection with its
8 wage practices towards you, in other words, that they set
9 out to violate the wage and hour laws and to call issues
10 or that they did it just -- that they didn't really
11 understand what they were doing and maybe they made a few
12 mistakes?

13 MR. SHELLIST: Object to the form of the
14 question but you can answer it.

15 A. I don't know the answer to that.

16 Q. (By Mr. Van Huff) Okay. I mean, are you aware
17 of any facts which demonstrate that Treasures was
18 intentionally violating the wage and hour loss?

19 A. I guess I don't know -- I don't know.

20 Q. Are you aware of the fact that at some point
21 several years ago the Department of Labor audited
22 Treasures and gave Treasures a clean bill of health with
23 regard to its wage and hour practices?

24 A. I'm not aware of that.

25 Q. Aside from what other people have told you, do

Page 30

1 you have any personal knowledge regarding the manner in
2 which Centerfolds, Gold Cup, Trophy Club, Splendor or
3 Cover Girls have handled their credit cards transactions
4 since 2005?

5 A. I only know about Treasures.

6 Q. How much money do you think Treasure owes you for
7 the wage and hour violations that you've alleged in your
8 lawsuit?

9 A. I have no way of knowing that. I mean, you'd
10 have to ask my lawyer.

11 Q. Are you aware of the fact that the lawsuit was
12 filed over two years after your last of employment with
13 Treasures?

14 A. I'm aware.

15 Q. Are you aware of the fact that your consent to
16 join the lawsuit wasn't filed until three years after the
17 last date of your employment with Treasures?

18 A. I'm aware.

19 Q. Does that cause you to have any statute of
20 limitations or concerns about your claims against
21 Treasures?

22 MR. SHELLIST: Object to the form of the
23 question.

24 You can answer the facts if you know the
25 facts but don't answer legal questions.

Page 31

1 A. I don't -- I don't know.

2 Q. (By Mr. Van Huff) In your answer to
3 Interrogatory 13 -- well, what I have here is an answer to
4 Interrogatory 13 and it talks about some of the plaintiffs
5 specifically but it doesn't mean you individually. So,
6 you may or may not have information in connection with
7 this interrogatory. Are you alleging that Treasures
8 required you to pay for walked tabs?

9 A. Yes.

10 Q. What is the factual basis for that claim?

11 A. Meaning somebody walked their tab you had to pay
12 for it.

13 Q. As a bartender, if a customer being served by a
14 waitress walked a tab, would you have to pay for it?

15 A. Can you say that again?

16 Q. You got a customer seated at the table away from
17 the bar who is being served by a waitress. Waitress is
18 coming to get drinks from you. Waitress is keeping track
19 of how many drinks a customer is drinking. If that
20 customer disappears, who is responsible -- you're claiming
21 that if that customer walks, that under that scenario
22 would the waitress be the one to pay for the walked tab or
23 would you be the one to pay for the walked tab?

24 A. The waitress would be.

25 Q. Okay. So, what walk tabs would you be

Page 32

1 responsible for?

2 A. Any tab that I was personally running myself, I
3 mean, at the bar.

4 Q. Okay. So, for customers seated at the bar who
5 are ordering from you directly and running a tab?

6 A. Right. They go to the bathroom and then not come
7 back. I would be responsible to pay for that.

8 Q. Wouldn't the customer need to give you a credit
9 card to open a tab in the first place?

10 A. Correct. Sometimes -- sometimes you wouldn't
11 take -- he wouldn't take a credit card. Maybe one round
12 of drinks or maybe it was a regular customer that you
13 know, but I'd still have to pay the tab.

14 Q. What's the largest amount of a walk tab that you
15 claim you have had to pay for?

16 A. Well over a hundred dollars.

17 Q. What would the average be? One or two days?

18 A. Yeah, not -- you know, 25, \$30.

19 Q. So, the majority of the time --

20 A. For me personally, yeah.

21 Q. So, it's your testimony that the majority of the
22 time that you would have to cover a walk tab it would be a
23 tab that was under \$25?

24 A. For me personally, yes, sir.

25 Q. Are you also alleging that you had to pay for

Page 33

1 credit card chargebacks?

2 A. Correct.

3 Q. What is a credit card chargeback?

4 A. That's when the customer disputes the credit card
5 charge with the credit card company.

6 Q. How often would that happen with a tab that was
7 being run with the bartender?

8 A. You know, it's not -- it wasn't very common but
9 it happened.

10 Q. How many times per year?

11 A. Per year?

12 Q. For bartenders. In your experience.

13 A. Are you talking about the whole -- all the ones
14 that I did as a bartender or the ones --

15 Q. Just for you.

16 A. Just for me?

17 Q. Uh-huh. Yes.

18 A. Very rarely, one -- if one per year.

19 Q. And what about walk tabs per year?

20 A. Maybe four or five.

21 Q. And so, we're talking about an aggregate of
22 between 1 and \$200 in walk tabs per year that you would
23 have to pay for?

24 A. Right.

25 Q. Are you aware of any other fact personally, aware

Page 34

1 of any other facts as they relate to you as an individual
 2 regarding walk tabs or credit card chargebacks that we
 3 haven't talked about?
 4 A. No, sir.
 5 Q. We talked about your DUI. Do you recall that?
 6 A. Earlier.
 7 Q. In the case we talked about that you got arrested
 8 and got a DUI at some point?
 9 A. Right.
 10 Q. Driving while intoxicated?
 11 A. Correct.
 12 Q. And in Interrogatory No. 15 I asked you about
 13 criminal arrests and you said that you've never been
 14 arrested and then you swore to that answer. Is that just
 15 an error on the part of someone --
 16 A. Could be an error, yes.
 17 Q. -- other than you?
 18 Are you alleging that Treasures required you
 19 to pay for spillage or breakage?
 20 A. I'm not aware of that.
 21 Q. Did Treasures ever require you to pay for
 22 spillage or breakage?
 23 A. Not me personally, no.
 24 Q. Do you have any personal knowledge of the
 25 policies at Centerfolds, Gold Cup, Trophy Club, Splendor

Page 35

1 or Cover Girls from 2005 to the present regarding walk
 2 tabs or credit card chargebacks?
 3 A. No, sir.
 4 MR. VAN HUFF: Mark this as Exhibit 1,
 5 please.
 6 (A. Baker Exhibit No. 1 was marked.)
 7 Q. (By Mr. Van Huff) I'm handing you a document
 8 that's been marked by the court reporter as Exhibit 1.
 9 The title of this document is Declaration of Andrew Baker.
 10 Do you recognize that?
 11 A. Yes, sir.
 12 Q. On the third page, is that your signature there?
 13 A. Yes, sir.
 14 Q. Underneath where it says: "I swear under penalty
 15 of perjury that the foregoing is true and correct"?
 16 A. That's correct.
 17 Q. I see here in the second paragraph on the first
 18 page: "From January, 1999, to April, 2007, I worked for
 19 D. Houston, Inc. D/B/A Treasures, which is owned and
 20 operated by Ali and Hassan Davari." You see that?
 21 A. Yes, sir.
 22 Q. All right. Did you know that D. Houston, Inc.,
 23 is actually owned by another corporation?
 24 A. Another corporation?
 25 Q. Yes.

Page 36

1 A. No, I did not.
 2 Q. So, if D. Houston, Inc., was owned by another
 3 corporation, then this first sentence here would be
 4 incorrect, yes?
 5 MR. SHELLIST: Object to the form of the
 6 question. Calls for a legal conclusion but you can answer
 7 it.
 8 A. I'm not sure.
 9 Q. (By Mr. Van Huff) Would it also surprise you to
 10 hear that the other five clubs are also owned by a
 11 corporation?
 12 A. It wouldn't surprise me.
 13 Q. But you swore under oath that they were owned by
 14 Ali and Hassan Davari.
 15 A. That was what I was led to believe when I was
 16 employed there.
 17 Q. It says here that you weren't always paid for
 18 every hour that you worked. What's the basis for that?
 19 A. I'm not sure. I'd have to talk to my lawyer
 20 about that.
 21 Q. Because you were paid shift pay?
 22 A. Right.
 23 Q. Now, it says here you performed work for
 24 Centerfolds and Splendor and that you're familiar with how
 25 those clubs operated. I guess you're familiar with how

Page 37

1 Centerfolds operated during the time period 1995 and 1999,
 2 correct, because that's when you worked there?
 3 A. That's correct.
 4 Q. But you testified earlier that you don't have any
 5 personal knowledge of how it's operated post 1999 because
 6 you haven't been there since then, right?
 7 MR. SHELLIST: Object to the form of the
 8 question but you can answer it.
 9 A. That's correct.
 10 Q. (By Mr. Van Huff) You say here that the 5
 11 percent that was deducted from the amount that you paid on
 12 tabs were paid by credit card, that the 5 percent was more
 13 than the actual credit card conversion fee?
 14 A. I mean, you'd have to talk to my lawyer about
 15 that. I'm not sure.
 16 Q. Well, the basis of your lawsuit and I think that
 17 you'll agree with me is that the 5 percent that they were
 18 deducting from your credit card tips to cover the cost of
 19 converting those tips to cash was too high, right? The 5
 20 percent was too much?
 21 A. Okay.
 22 Q. What's the factual basis for your claim that that
 23 amount is too high?
 24 A. Once again, I'd have to refer you to my lawyer.
 25 Q. Okay. You say here that the dancers had to pay a

Page 38

1 door entrance fee upon first entering the club at night?
 2 A. Yes, sir.
 3 Q. Other than what other people told you, how do you
 4 know that to be true?
 5 A. I actually saw it happen.
 6 Q. Explain to me what your understanding was with
 7 what was happening.
 8 A. The girl had to pay an entrance fee to come in
 9 and work at the club.
 10 Q. Are you alleging that you suffer- -- that you
 11 personally suffered some sort of harm as a result of that?
 12 A. No.
 13 Q. Are you alleging that it was unlawful for
 14 Treasures to charge the dancers an entrance fee?
 15 A. I'm not sure of the answer to that.
 16 Q. It says here: "As for how waitresses and
 17 bartenders got paid, we often had to wait to get paid our
 18 tips on larger credit card charges." You see that here?
 19 A. I see.
 20 Q. Can you explain that to me, please?
 21 A. Yeah. If a credit card came in and was over,
 22 say, \$5,000, the club would hold it until the charge
 23 actually went through before they would pay anybody out on
 24 it.
 25 Q. Okay. But once the charge did, in fact, go

Page 39

1 through, you'd get paid?
 2 A. Correct.
 3 Q. And when you say "charge go through," what do you
 4 mean, like the credit card machine accept the credit card
 5 and print out the receipt?
 6 A. No, there wouldn't be no charge back.
 7 Q. Was there ever an instance where there was a
 8 charge back on a credit card that you say wasn't paid to
 9 you at the end of your shift?
 10 A. Me personally, no.
 11 Q. So, in your experience you individually were paid
 12 all of your credit card tips?
 13 A. Correct.
 14 Q. Less the 5 percent that you're claiming that was
 15 unlawful?
 16 A. Right.
 17 Q. It says here that you would be ordered to bring
 18 cash in an envelope and give it to the club via "Norman."
 19 Did you ever give any cash in an envelope to Norman?
 20 A. I did not.
 21 Q. Then why does it say that in your Declaration?
 22 A. If I was subjected to the -- if I was -- had the
 23 charge back and was paid out on it, I would have to bring
 24 the cash back.
 25 Q. But you just told me that you never had to bring

Page 40

1 any cash back.
 2 A. Right.
 3 Q. So, you're saying theoretically if it ever
 4 happened, which it didn't, you would have to bring it in
 5 an envelope?
 6 A. Right.
 7 Q. But you never had to?
 8 A. I personally did not.
 9 Q. Okay. It says here you saw other people bring
 10 cash in envelopes.
 11 A. Yes, sir.
 12 Q. Yes?
 13 How many times did you see people bring cash
 14 in envelopes to Norman?
 15 A. I'm not sure of the actual number.
 16 Q. Was it about five times?
 17 A. It was more than ten.
 18 Q. More than 20?
 19 A. I'm not sure. I know it was more than ten.
 20 MR. SHELLIST: Al, are you talking during his
 21 whole employment, just the end or everything combined?
 22 MR. VAN HUFF: There wasn't really a limit on
 23 it.
 24 MR. SHELLIST: Understood. I just wanted to
 25 make sure that you guys were on the same page but it is as

Page 41

1 it is.
 2 Q. (By Mr. Van Huff) When was the last time you saw
 3 anybody bring, a waitress or a dancer, bring cash in an
 4 envelope to Norman?
 5 A. It had to -- it would have to have been four
 6 years ago.
 7 Q. And other than what people told you, how would
 8 you know what the cash in the envelope was for?
 9 A. Because that was the standard practice. They
 10 would tell me about it.
 11 Q. Well, other than what people told you --
 12 A. Right. I mean --
 13 Q. -- if nobody told you what the envelope situation
 14 was all about, you wouldn't know, correct?
 15 A. Correct.
 16 Q. Do you know how much money was in the envelopes?
 17 A. No, sir.
 18 Q. Do you know if any of the cash envelopes were
 19 repayment of loans?
 20 A. I can't answer that.
 21 Q. Because you don't know?
 22 A. I don't know.
 23 Q. They could have all by been repayment of loans
 24 then, correct?
 25 A. Not to my experience. There were no loans.

Page 42

1 Q. I see here that all the bartenders and waitresses
2 who worked for the Davaris did the same job.

3 A. Correct.

4 Q. Well, y'all weren't always paid the same way
5 because the waitresses always got 2.13 an hour and many of
6 the bartenders such as yourself were getting shift pay,
7 correct?

8 A. Correct.

9 Q. Yeah. And waitresses' duties are clearly
10 different than bartenders' duties?

11 A. I think we do the same jobs per bartender per
12 waitress.

13 Q. Okay. So, you're not saying that bartenders and
14 waitresses did the same job?

15 A. Right.

16 Q. You're saying that all the bartenders did the
17 same job and all the waitresses did the same job?

18 A. Correct.

19 Q. Okay. And it was also your testimony that as a
20 bartender you were paid a hundred percent of tips that you
21 were due?

22 MR. SHELLIST: Object to the form of the
23 question.

24 Q. (By Mr. Van Huff) Correct?

25 Other than the 5 percent that was -- that

Page 44

1 to give to Norman whereas this Declaration reflects the
2 fact that certain waitresses involved in this lawsuit were
3 required to do so which would be another example of a
4 difference between the way you were treated as a bartender
5 and the waitresses involved in this lawsuit were treated,
6 correct?

7 A. Correct. I was required to do it as well,
8 though.

9 Q. Well, you never had to do it.

10 A. But I never had to do it.

11 MR. VAN HUFF: Well, we been going for about
12 an hour and 20 minutes. You ready for a little break then
13 we can finish up?

14 MR. SHELLIST: Sure.

15 (Break from 11:16 a.m. to 11:36 a.m.)

16 MR. VAN HUFF: I just have a few more
17 questions. I'm not going to be here very much longer.

18 THE WITNESS: Okay.

19 Q. (By Mr. Van Huff) I've got a set of documents
20 here that were produced in response to Request for
21 Production that I sent to your lawyer and the documents
22 seem to be broken down by plaintiff. So, under Andrew
23 Baker we've got documents that were labeled McKnight 24 to
24 McKnight 28. What I'd like you to do is just take a look
25 at these and let me know if you've ever seen these before.

Page 43

1 you're claiming about in your lawsuit? You just said that
2 a few moments ago.

3 A. Yeah, a hundred percent, right.

4 Q. Okay. Now, however, unlike you, the waitresses
5 in this lawsuit are claiming that they did not receive a
6 hundred percent of their tips, correct?

7 A. Well, I'm not sure. You'd have to refer to my
8 lawyer for what they said.

9 Q. Well, you say here in your Declaration, your
10 sworn Declaration, that: "If we didn't get paid on a
11 credit card transaction which was later contested, one of
12 the managers would make us or the waitress and the dancer
13 pay back the money we got."

14 Now, we already established that that didn't
15 apply to you personally but that this has to do with the
16 waitresses, correct?

17 A. Correct.

18 Q. So, that would -- that's an example of how the
19 waitress's claims are different than the claims that
20 you're making as a bartender, correct?

21 A. Okay.

22 Q. Yes?

23 A. Yes.

24 Q. And, also, as a bartender it's your testimony
25 that you were never required to bring cash in an envelope

Page 45

1 A. Yeah, correct, I've seen them before.

2 Q. What are they?

3 A. These were the actual check out sheets that we
4 use as bartenders.

5 Q. Okay. I notice that these check out sheets are
6 dated in 2008 during which time you no longer worked
7 there, correct?

8 A. Right.

9 Q. Or worked at Treasures, correct?

10 A. Correct.

11 Q. What is the significance of those documents?

12 MR. SHELLIST: Object to the form but you can
13 answer.

14 Q. (By Mr. Van Huff) If any.

15 A. I had a business that I was doing, and I used the
16 same format.

17 Q. Okay. Is there anything about those documents
18 that demonstrate in any way that Treasures was doing
19 something unlawful?

20 MR. SHELLIST: Object to the form but you can
21 answer it.

22 A. I don't know.

23 Q. (By Mr. Van Huff) I don't know either.

24 A. All right.

25 Q. Do you know which Request for Production these

Page 46

1 documents were produced in response to?

2 A. No, sir.

3 Q. Why did your employment with Treasures end?

4 A. I just -- I quit. I decided to move on to
5 something else.

6 Q. Did you quit, or were you terminated?

7 A. I quit.

8 MR. VAN HUFF: Pass the witness.

9 MR. SHELLIST: I have a few questions for
10 you, sir.

11 EXAMINATION

12 QUESTIONS BY MR. SHELLIST:

13 (11:40 a.m.)

14 Q. Did you receive any of your compensation as tip
15 outs for money that was earned by waitresses?

16 A. Yes, I did.

17 Q. If a waitress did not receive all of her income
18 for whatever reason but if she did not receive all of her
19 tipped income, would that affect your income?

20 A. Correct.

21 Q. What percent would you typically get as a tip out
22 from the waitresses at the end of a shift?

23 A. 15 percent.

24 Q. Did any employees of any of the clubs ever tell
25 you -- strike that.

Page 47

1 You talked a little awhile ago with
2 Mr. Van Huff about the white envelopes that you saw and he
3 had asked you some information about personal knowledge
4 and et cetera. Did any of the waitresses ever tell you
5 that they had to return cash monies in a white envelope?

6 MR. VAN HUFF: Object to the extent it calls
7 for hearsay.

8 A. Correct.

9 Q. (By Mr. Shellist) And give me an example of what
10 you were told by -- well, strike that.

11 Based on what you were told, do you know what
12 was in the envelope and what it was for?

13 MR. VAN HUFF: Running objection to hearsay.

14 MR. SHELLIST: Yeah, that's fine.

15 A. They would come in and complain to me about what
16 they just had to turn in, you know.

17 Q. (By Mr. Shellist) What would they say?

18 A. "Man, I just had to pay \$500 on a charge back
19 credit card."

20 Q. Did you ever hear from any managers in any of the
21 clubs that if there were charge backs the club was going
22 to get their money back?

23 A. Yes.

24 Q. And in your opinion was this something that was,
25 this occurrence was it just a random occurrence; or was it

Page 48

1 something that you would have observed on a more regular
2 basis?

3 A. Well, it was a standard set for this type of
4 occurrence.

5 Q. Okay. And so, if it did occur, then, there was a
6 protocol in place in your opinion?

7 A. Right. Correct.

8 Q. Now, I believe and I didn't --

9 MR. VAN HUFF: Object to speculation for the
10 last question.

11 Q. (By Mr. Shellist) I didn't hear the entire
12 exchange I don't think but Mr. Van Huff asked you I think
13 earlier about whether you were aware that dancers -- that
14 there was a 25-dollar per credit card dance charge. Are
15 you aware of that?

16 A. I'm aware of that.

17 Q. And how much of that money, if any, did the
18 dancers have to pay to the house?

19 A. \$5.

20 Q. And in your experience was that at all of the
21 clubs or only at Treasures?

22 A. That's everywhere.

23 Q. And what do you base that on?

24 A. Just talking with people, you know, my everyday
25 business. If it's the same somewhere, it's always -- you

Page 49

1 know, if it was different somewhere else, everybody would
2 go there as well. It was always the same standard
3 everywhere you went.

4 Q. I want to make sure -- let me focus on what you
5 were told.

6 Did you ever talk with any dancers who danced
7 at other clubs?

8 A. Sure.

9 Q. And did you ever talk about the 5-dollar pay to
10 the house with managers?

11 A. Sure.

12 Q. And did you ever talk with patrons or waitresses
13 about \$5 being paid to the house?

14 A. We talked to -- I talked to everybody about it,
15 sure.

16 Q. And you have your ex-wife. How was she employed
17 while you were employed at Treasures?

18 A. She was a waitress at Centerfolds.

19 Q. Did you ever talk with her about the business
20 practices at Centerfold?

21 A. Of course, we did.

22 Q. And were the practices, the business practices,
23 of the 5-dollar charge paid to the house per credit card
24 dance the same there as it was at Treasures?

25 A. Yes, correct.

Page 50

1 Q. The 5 percent being withheld for the alleged
2 credit card liquidation fee, was it the same at
3 Centerfolds as it was at Treasures, to your knowledge?
4 A. It was the same as.
5 Q. Have you read George Davari's deposition?
6 A. I read it, yes, sir.
7 Q. And did you read a part in there where George
8 Davari said that some clubs were 4 percent credit card fee
9 and some were 5 percent?
10 A. I read that.
11 Q. Do you know which clubs were which, meaning which
12 clubs charged 4 percent and which clubs charged 5 percent?
13 A. No. Everybody charged 5 percent as far as I
14 know.
15 Q. As far as you know?
16 A. (Witness nods head affirmatively.)
17 Q. Okay. Did anybody ever tell you what the \$5 per
18 credit card dance was used for?
19 A. Probably the processing --
20 Q. Follow me on the question.
21 Did any -- and I don't mean to interrupt you
22 but did anybody ever tell you what the 5-dollar credit
23 card surcharge was used for?
24 A. Yes.
25 Q. Who?

Page 51

1 A. The managers would tell me. The owner of the
2 club told me. The dancers would even tell you.
3 Q. Now, was this -- I want to focus with you on the
4 last, let's say, year of your employment with the Davaris
5 and while you worked at Treasures.
6 Were any of the comments from managers or
7 owners about what the 5-dollar credit card charge was used
8 for, were any of the comments made during that time, the
9 last term of your employment?
10 A. Sure.
11 Q. Did you ever hear patrons complain about how high
12 their tab was?
13 A. I heard that.
14 Q. Okay. And what was a potential solution for
15 somebody if their credit card tab was so high, if any?
16 A. To come in and pay it cash.
17 Q. Why was that?
18 A. So they wouldn't have to pay the extra 5-dollar
19 per dance fee.
20 Q. To your knowledge, did dancers ever have to pay
21 any money that they received in cash for dances to the
22 house?
23 A. None whatsoever.
24 Q. Now, Mr. Van Huff asked you about an
25 interrogatory and you talked about a DUI. Do you remember

Page 52

1 talking about that?
2 A. Yes, sir.
3 Q. Now, sitting here today, can you tell us why you
4 did not list that on the interrogatory?
5 A. Because it said "other than traffic violation."
6 I took that to mean DUI.
7 Q. All right. Now, when Mr. Van Huff did ask you
8 about being arrested or involved in legal proceedings,
9 you've told him the truth today, correct?
10 A. Correct.
11 Q. During your entire employment with the Davaris
12 and for the clubs you talked to Mr. Van Huff about up
13 until the day that you stopped working there, did any
14 owner or manager of the club tell you that any percent of
15 that 5 percent that was held back from your tips, that any
16 part of that was going to pay for chargebacks?
17 A. No.
18 MR. SHELLIST: I'll pass the witness.
19 FURTHER EXAMINATION
20 QUESTIONS BY MR. VAN HUFF:
21 (11:48 a.m.)
22 Q. The ex-wife that worked at Centerfolds --
23 A. Yes, sir.
24 Q. -- is that ex-wife No. 1 or soon-to-be-ex-wife
25 No. 2?

Page 53

1 A. No. 2.
2 Q. Is that Allison?
3 A. That's right. That's correct.
4 Q. What is Allison's telephone number?
5 A. I have to take it out of here for a second. It's
6 281-748-7786.
7 Q. And where would I find Allison and serve her with
8 a deposition subpoena?
9 A. 22530 Heatherway Court, Katy, 77449.
10 Q. Do you know when Allison stopped working for
11 Centerfolds?
12 A. Right around the same time I quit working at
13 Treasures, maybe a little bit before.
14 Q. Did she know about this lawsuit?
15 A. Yes.
16 Q. Have you listed this lawsuit as a potential asset
17 in the divorce proceeding?
18 A. No.
19 Q. Why not?
20 A. Because I haven't -- I'm going to be divorced
21 here in about a week and this lawsuit hadn't materialized
22 yet.
23 Q. Is there a division of assets that will result
24 because of the divorce?
25 A. I'm not sure what you're asking.

Page 54

1 Q. Normally in a divorce situation there are assets
2 and liabilities --

3 A. Oh, yes. Yeah.

4 Q. -- assets meaning property and liabilities
5 meaning debt.

6 A. Correct.

7 Q. And is there going to be a division of assets and
8 liabilities in connection with the divorce proceeding?

9 A. Sure.

10 Q. Okay. And how is the -- is this lawsuit being
11 dealt with specifically in connection with the divorce
12 proceeding?

13 A. No.

14 Q. Why not?

15 A. You'd have to ask my lawyer.

16 Q. Is your divorce lawyer aware of this lawsuit?

17 A. Yes.

18 Q. And you say that Allison is also aware of the
19 lawsuit?

20 A. Right.

21 Q. What is the status of the divorce proceeding.

22 MR. SHELLIST: Object to the form. I don't
23 want to get into that unless you can tell me why you think
24 it's important.

25 MR. VAN HUFF: He just said it was about to

Page 55

1 finish next week.

2 MR. SHELLIST: No, I understand.

3 MR. VAN HUFF: I just asked.

4 Q. (By Mr. Van Huff) I mean, are y'all for entry of
5 judgment next week?

6 A. Yeah, I've got mediation on Thursday and the
7 judge Monday.

8 Q. Okay.

9 A. It's going to be done.

10 MR. VAN HUFF: No further questions. Pass
11 the witness.

12 MR. SHELLIST: We'll pass the witness.

13 Thank you for your time.

15 (Deposition concluded at 11:52 a.m.)

Page 56

WITNESS CORRECTIONS AND SIGNATURE

2 Please indicate changes on this sheet of paper, giving
3 the change, page number, line number and reason for the
4 change. Please sign each page of changes.

4 PAGE/LINE CORRECTION REASON FOR CHANGE

25 ANDREW BAKER

Page 57

1 I, ANDREW BAKER, have read the foregoing deposition
2 and hereby affix my signature that said is true and
3 correct, except as noted on the previous page(s), and that
4 I am signing this before a Notary Public.

5 ANDREW BAKER

6 STATE OF TEXAS *

7 COUNTY OF HARRIS *

8 Before me, , on this day
9 personally appeared ANDREW BAKER, known to me or proved to
10 me under oath or through (description of
11 identity card or other document) to be the person whose
12 name is subscribed to the foregoing instrument and
13 acknowledged to me that they executed the same for the
14 purposes and consideration therein expressed.

15 Given under my hand and seal of office this
16 day of , .

20 NOTARY PUBLIC IN AND FOR
21 THE STATE OF TEXAS

22 My Commission Expires:
23
24
25

Page 58

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LAURA MCKNIGHT, TRISHA *
TURNER, ANDREW BAKER, *
RACHAEL FREEDMAN, KIMBERLY *
MCCRAY, and MARGO MORENO *
Plaintiffs, *

V. * Civil Action No. H-09-3345

D. HOUSTON, INC. D/B/A *
TREASURES, A.H.D. HOUSTON, *
INC. D/B/A CENTERFOLDS, *
D.N.W. HOUSTON, INC. D/B/A *
GOLD CUP, D. RANKIN, INC. *
D/B/A TROPHY CLUB, D WG FM, *
INC. D/B/A SPLENDOR, * Jury Trial Demanded
W.L. YORK, INC. D/B/A *
COVER GIRLS, AND, IN THEIR *
INDIVIDUAL CAPACITIES, ALI *
DAVARI and HASSAN DAVARI *
Defendants. *

REPORTER'S CERTIFICATION
FOR THE ORAL DEPOSITION
ANDREW BAKER
MAY 11, 2010

I, Rita Frangullie, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, ANDREW BAKER, was duly sworn by the
officer and that the transcript of the oral deposition is
a true record of the testimony given by the witness;

That the deposition transcript was submitted on
, 2010, to the witness, or to the
attorney for the witness for examination, signature and

Page 60

FURTHER CERTIFICATION UNDER RULE 203 TRCP
The original deposition was/was not returned to the
deposition officer on , 2010.

If returned, the attached Changes and Signature
page contains any changes and the reasons therefor;

If returned, the original deposition was delivered
to Mr. Albert Thomas Van Huff, custodial Attorney;

That \$ is the deposition officer's
charges to the Defendant, TBA No. 24028183 for preparing
the original deposition transcript and any copies of
exhibits;

That the deposition was delivered in accordance with
Rule 203.3, and that a copy of this certificate was served
on all parties shown herein on and filed with the Clerk.

Certified to by me this day of , 2010.

RITA FRANGULLIE, Texas CSR, 7847
Expiration Date: 12-31-2011

Q&A REPORTING, INCORPORATED
10220 Memorial Drive, Suite 22
Houston, Texas 77024
(713) 467-7900 - Telephone
(713) 467-7911 - Fax
Registration Firm No. 402

Page 59

return to Q&A Reporting, Incorporated by ,
2010;

That the amount of time used by each party at the
deposition is as follows:

MR. ALBERT THOMAS VAN HUFF - 1 hour 25 minutes

MR. MARTIN A. SHELLIST - 8 minutes

That pursuant to information given to the
deposition Officer at the time said testimony was taken,
The following includes counsel for all parties of record:

MR. MARTIN A. SHELLIST, Attorney for plaintiffs;

MR. ALBERT THOMAS VAN HUFF, Attorney for
Defendants;

I further certify that I am neither counsel for,
related to, nor employed by any of the parties or
attorneys in the action in which this proceeding was
taken, and further that I am not financially or otherwise
interested in the outcome of the action.

Further certification requirements pursuant to Rule
203 TRCP will be certified to after they have occurred.

Certified to by me this day of
, 2010.

Rita Frangullie,
Certified Shorthand Reporter
in and for the State of Texas
Certification No. 7847
Expiration Date: 12-31-2011

<p>A</p> <p>able 27:7</p> <p>above-styled 1:18</p> <p>accept 39:4</p> <p>acceptable 22:22</p> <p>accidentally 15:24</p> <p>acknowledge 20:2</p> <p>acknowledged 57:13</p> <p>Act 29:5</p> <p>action 1:6 58:6 59:15,17</p> <p>actual 37:13 40:15 45:3</p> <p>addition 12:17,19 18:22 21:24</p> <p>address 6:12</p> <p>affect 46:19</p> <p>affirmatively 9:8 50:16</p> <p>affix 57:1</p> <p>agent 6:20</p> <p>aggregate 19:1 33:21</p> <p>ago 11:19,20 15:14 16:3 21:13,24 26:21 29:21 41:6 43:2 47:1</p> <p>agree 6:5 37:17</p> <p>agreed 5:23 18:2</p> <p>agreements 4:11</p> <p>Al 40:20</p> <p>Albert 2:9 3:3,4 59:5,11 60:5</p> <p>Ali 1:11 35:20 36:14 58:11</p> <p>allegation 22:24 23:1,13,21,25 26:22,25 27:4,13 27:18,19</p> <p>allege 20:10 27:10</p> <p>alleged 30:7 50:1</p> <p>alleging 31:7 32:25 34:18 38:10,13</p> <p>Allison 53:2,7,10 54:18</p> <p>Allison's 53:4</p> <p>al@vanhuff.com 2:12</p>	<p>amended 9:10,11</p> <p>amount 32:14 37:11,23 59:3</p> <p>Andrew 1:3,14,16 3:3,10 4:1,9 35:9 44:22 56:25 57:1 57:4,9 58:3,14,19</p> <p>answer 5:6,13,16 9:9,10 12:15,25 17:22 18:6 20:23 22:20,22,22 23:3 23:16,19 24:18 27:7 29:1,14,15 30:24,25 31:2,3 34:14 36:6 37:8 38:15 41:20 45:13 45:21</p> <p>answers 4:25 5:1,5 6:9 8:16,21 12:21 13:4</p> <p>anticipate 5:14</p> <p>anybody 38:23 41:3 50:17,22</p> <p>anyway 16:2</p> <p>Appearances 3:2</p> <p>appeared 57:9</p> <p>apply 43:15</p> <p>appreciate 5:12</p> <p>approximate 8:23</p> <p>approximately 8:18 24:16</p> <p>April 8:19,22,24 9:5 13:19 35:18</p> <p>arrested 8:10 34:7 34:14 52:8</p> <p>arrests 34:13</p> <p>Aside 29:25</p> <p>asked 5:25 13:9 16:6,20 18:1 34:12 47:3 48:12 51:24 55:3</p> <p>asking 13:1 15:19 53:25</p> <p>asset 53:16</p> <p>assets 53:23 54:1,4 54:7</p> <p>assorted 9:18</p> <p>assume 5:20,21 10:1</p>	<p>attached 1:25 6:10 60:3</p> <p>attorney 2:14 58:24 59:10,11 60:5</p> <p>attorneys 59:15</p> <p>audited 29:21</p> <p>average 19:7 32:17</p> <p>aware 14:15 23:1 23:12,25 24:7 26:24 27:13,15,18 29:16,20,24 30:11 30:14,15,18 33:25 33:25 34:20 48:13 48:15,16 54:16,18</p> <p>awhile 47:1</p> <p>awkward 5:14</p> <p>A.H.D 1:7 58:7</p> <p>a.m 1:19,19 4:6 44:15,15 46:13 52:21 55:15</p> <p>B</p> <p>back 10:6 12:10 13:22 28:8 32:7 39:6,8,23,24 40:1 43:13 47:18,22 52:15</p> <p>backs 47:21</p> <p>Baker 1:3,14,16 3:3 3:10 4:1,7,9 35:6 35:9 44:23 56:25 57:1,4,9 58:3,14 58:19</p> <p>bar 10:9,13,14 31:17 32:3,4</p> <p>bartended 20:14</p> <p>bartender 7:14 9:13,14,20 10:18 12:11 13:23 14:10 14:21 15:1 26:10 31:13 33:7,14 42:11,20 43:20,24 44:4</p> <p>bartenders 24:10 24:13 25:5,7,10 25:18,24 26:2,18 33:12 38:17 42:1 42:6,10,13,16 45:4</p>	<p>base 48:23</p> <p>Based 47:11</p> <p>Basically 9:16</p> <p>basis 18:3 19:20 29:3 31:10 36:18 37:16,22 48:2</p> <p>bathroom 32:6</p> <p>began 25:7,12</p> <p>beginning 11:12</p> <p>behalf 6:6</p> <p>believe 11:18 26:4 36:15 48:8</p> <p>bill 29:22</p> <p>bit 5:14 8:12 53:13</p> <p>break 44:12,15</p> <p>breakage 34:19,22</p> <p>bring 10:5 39:17,23 39:25 40:4,9,13 41:3,3 43:25</p> <p>broken 44:22</p> <p>business 20:12 26:23 27:5 45:15 48:25 49:19,22</p> <p>C</p> <p>C 2:1</p> <p>call 8:25 17:2 29:9</p> <p>called 6:11 7:3 12:4 12:11 22:25 29:4</p> <p>calls 36:6 47:6</p> <p>CAPACITIES 1:11 58:11</p> <p>card 10:4 18:16 19:18,24 22:5,9 27:11,16 28:1,21 28:24 32:9,11 33:1,3,4,5 34:2 35:2 37:12,13,18 38:18,21 39:4,4,8 39:12 43:11 47:19 48:14 49:23 50:2 50:8,18,23 51:7 51:15 57:11</p> <p>cards 9:18,25 28:1 30:3</p> <p>career 28:15</p> <p>case 1:18 6:7 8:14 34:7</p> <p>cash 9:17,22 19:10</p>	<p>19:12,18,19,23 20:3,5,21,25 21:6 37:19 39:18,19,24 40:1,10,13 41:3,8 41:18 43:25 47:5 51:16,21</p> <p>casualty 7:5</p> <p>cause 30:19</p> <p>causes 18:15</p> <p>caveat 15:23</p> <p>Centerfold 49:20</p> <p>Centerfolds 1:8 11:8,11,15 12:16 12:18,24 13:3,5,6 13:7,9,17 14:1,2,7 14:9 21:13 30:2 34:25 36:24 37:1 49:18 50:3 52:22 53:11 58:8</p> <p>certain 44:2</p> <p>certificate 3:6 60:9</p> <p>certification 1:13 58:13 59:18,24 60:1</p> <p>certifications 7:10</p> <p>certified 1:20 58:16 59:19,20,23 60:11</p> <p>certify 58:17 59:13</p> <p>cetera 47:4</p> <p>change 26:7 56:2,3 56:4</p> <p>changed 25:6,14</p> <p>changes 56:2,3 60:3,4</p> <p>charge 27:23,25 28:18 33:5 38:14 38:22,25 39:3,6,8 39:23 47:18,21 48:14 49:23 51:7</p> <p>chargeback 33:3</p> <p>chargebacks 33:1 34:2 35:2 52:16</p> <p>charged 50:12,12 50:13</p> <p>charges 27:11 38:18 60:7</p> <p>check 45:3,5</p> <p>Civil 1:6,24 58:6</p> <p>claim 8:17 18:3,15</p>
---	---	---	--	--

22:12 31:10 32:15 37:22 claiming 31:20 39:14 43:1,5 claims 30:20 43:19 43:19 Class 6:11 clean 29:22 clear 9:1 clearly 42:9 Clerk 60:10 club 1:9 9:17 11:23 19:23 21:20,21 30:2 34:25 38:1,9 38:22 39:18 47:21 51:2 52:14 58:9 clubs 6:8 8:13 17:25 18:14 22:25 23:6,10,13,22 24:3,8 26:18,23 27:4 36:10,25 46:24 47:21 48:21 49:7 50:8,11,12 50:12 52:12 collected 27:12,12 combine 18:25 combined 40:21 come 9:24 32:6 38:8 47:15 51:16 comes 10:13 coming 31:18 comments 51:6,8 Commission 57:22 common 24:1,2 33:8 company 33:5 compared 19:24 compensation 46:14 complain 47:15 51:11 complaining 21:9 22:8 complete 5:12 6:3 completely 10:18 concerns 30:20 concluded 55:15 conclusion 36:6 confidential 16:1	connection 7:13 29:7 31:6 54:8,11 consent 30:15 consideration 57:14 consuming 10:20 contact 16:8,8,11 contacted 16:10 contains 60:4 contention 24:7 contested 43:11 continued 26:3 conversation 5:11 16:13 conversations 15:17,25 17:6 conversion 37:13 converted 19:19 converting 37:19 Cook 28:13,14 copies 60:7 copy 60:9 corporation 35:23 35:24 36:3,11 correct 8:19 12:22 14:10,11,13 20:4 20:24 21:8,12,17 21:19 24:8,9 26:12,14,15 27:8 27:9 28:21,22,24 29:2 32:10 33:2 34:11 35:15,16 37:2,3,9 39:2,13 41:14,15,24 42:3 42:7,8,18,24 43:6 43:16,17,20 44:6 44:7 45:1,7,9,10 46:20 47:8 48:7 49:25 52:9,10 53:3 54:6 57:2 Correction 3:5 56:4 CORRECTIONS 56:1 cost 27:10 28:23 37:18 costs 27:16 counsel 59:9,13 County 8:1,6 57:6	couple 17:7 course 15:19 49:21 court 1:1 4:23 5:1 5:15,21 35:8 53:9 58:1 cover 1:11 12:8 13:17 21:22,23 30:3 32:22 35:1 37:18 58:11 covered 22:4 27:11 27:17 coworkers 14:22 credit 9:18,25 10:3 18:16 19:18,24 22:5,9 27:11,16 27:25 28:1,21,23 30:3 32:8,11 33:1 33:3,4,5 34:2 35:2 37:12,13,18 38:18 38:21 39:4,4,8,12 43:11 47:19 48:14 49:23 50:2,8,18 50:22 51:7,15 criminal 34:13 CSR 60:15 Cup 1:9 11:21 21:15,18 30:2 34:25 58:9 current 6:12 currently 6:17 custodial 60:5 customer 10:3,7,8 10:16,20 31:13,16 31:19,20,21 32:8 32:12 33:4 customers 19:23 32:4	51:20 dances 51:21 date 11:10 30:17 59:25 60:16 dated 45:6 dates 8:18 Davari 1:12,12 23:11 28:5 35:20 36:14 50:8 58:12 58:12 Davaris 42:2 51:4 52:11 Davari's 50:5 David 23:11 day 1:18 12:1,3,4 12:10 20:9,11,14 20:14 21:1,5,25 52:13 57:8,16 59:20 60:11 days 32:17 dealt 54:11 debt 54:5 December 11:16,18 14:5 decide 17:24 decided 46:4 Declaration 3:10 6:10 8:24 12:17 12:24 13:4 35:9 39:21 43:9,10 44:1 deducted 37:11 deducting 37:18 defendant 7:20 60:7 defendants 1:12,17 2:8 6:7 8:14 26:19 58:12 59:12 delivered 60:5,9 Demanded 1:10 58:10 demonstrate 29:17 45:18 Department 29:21 deposition 1:14,16 4:15,20 6:4 50:5 53:8 55:15 57:1 58:14,20,22 59:4 59:8 60:2,2,5,6,7	60:9 description 3:9 57:10 difference 24:24 44:4 different 6:8 8:13 24:3 42:10 43:19 49:1 Difficult 6:2 directly 15:21 32:5 disappears 31:20 discrepancies 18:17 discrepancy 18:7 18:20 22:3 disputes 33:4 DISTRICT 1:1,1 58:1,1 division 1:2 53:23 54:7 58:2 divorce 7:25 8:4 53:17,24 54:1,8 54:11,16,21 divorced 53:20 document 35:7,9 57:11 documents 44:19 44:21,23 45:11,17 46:1 doing 15:15 24:19 24:19 29:11 45:15 45:18 dollars 32:16 door 38:1 dozen 25:2 drink 10:14 drinking 31:19 drinks 9:17,25 10:11,15,19 19:23 31:18,19 32:12 Drive 60:19 driver's 6:15 Driving 34:10 due 20:3 27:11 42:21 DUI 8:8,9 34:5,8 51:25 52:6 duly 1:17 4:2 58:19 duties 9:14 26:10
--	--	--	--	--

42:9,10 D.N.W 1:8 58:8 D/B/A 1:7,8,8,9,10 1:10 35:19 58:7,8 58:8,9,10,10	established 43:14 et 47:4 everybody 25:12 25:15,16,16,18 49:1,14 50:13 everyday 48:24 exact 12:4 19:25 exactly 13:1 16:4 16:23 17:4 24:3 24:23 27:2 28:2 28:17,18 examination 3:3,4 3:4 4:4 46:11 52:19 58:24 examined 4:2 example 43:18 44:3 47:9 exchange 48:12 executed 57:13 Exhibit 35:4,6,8 exhibits 3:8 60:8 expect 5:2 experience 24:10 26:14 33:12 39:11 41:25 48:20 Expiration 59:25 60:16 Expires 57:22 explain 5:24 9:19 10:2,25 18:8,9 22:7 27:24 38:6 38:20 expressed 57:14 extent 17:22 22:20 27:7 47:6 extra 27:25 28:18 51:18 ex-wife 49:16 52:22 52:24	Fair 29:5 fairly 5:3 familiar 15:4 36:24 36:25 far 9:21 14:14 50:13,15 Fax 2:6,11 60:21 Federal 29:5 fee 28:1 37:13 38:1 38:8,14 50:2,8 51:19 fees 27:12,17 28:19 28:21 fellow 15:1 figure 13:14 filed 30:12,16 60:10 fill 10:4 13:23 filled 12:1,11 financially 59:16 find 53:7 fine 47:14 finish 44:13 55:1 Firm 60:21 first 15:12 16:4 28:7 32:9 35:17 36:3 38:1 five 11:7 26:18 33:20 36:10 40:16 fix 13:12 FLSA 29:7 FM 1:9 58:9 focus 49:4 51:3 Follow 50:20 following 58:18 59:9 follows 4:3 59:4 foregoing 35:15 57:1,12 forget 7:2 form 4:16 17:22 18:5 20:22 22:19 23:2 27:6 28:25 29:13 30:22 36:5 37:7 42:22 45:12 45:20 54:22 format 45:16 four 33:20 41:5 Frangullie 1:20	58:16 59:23 60:15 FREEDMAN 1:4 58:4 Friedman 15:2 friend 18:1 front 5:2 further 3:4 52:19 55:10 59:13,16,18 60:1	handing 35:7 handled 26:18 30:3 handling 9:17,22 happen 33:6 38:5 happened 22:17 25:25 33:9 40:4 happening 22:1 38:7 harm 38:11 Harris 8:1,6 57:6 Hassan 1:12 35:20 36:14 58:12 head 5:7 9:8 50:16 health 7:6,7 29:22 hear 16:2 36:10 47:20 48:11 51:11 heard 51:13 hearsay 47:7,13 heart 22:11 Heatherway 53:9 held 52:15 help 18:1 hereto 1:25 high 37:19,23 51:11,15 hold 38:22 hour 19:5 24:15,17 24:25 26:11,17 29:9,18,23 30:7 36:18 42:5 44:12 59:5 hourly 10:23 24:20 25:7,11,14,15,24 hours 11:2 20:16 house 22:10 48:18 49:10,13,23 51:22 Houston 1:2,7,7,8 1:23 2:5,8,10,15 35:19,22 36:2 58:2,7,7,8 60:20 How's 17:7 Huff 2:9,9 3:3,4 4:5 4:12,18,19 17:24 18:10 20:24 22:21 23:5,21 27:8 29:3 29:16 31:2 35:4,7 36:9 37:10 40:22 41:2 42:24 44:11 44:16,19 45:14,23
E E 2:1,1 57:5 earlier 34:6 37:4 48:13 earned 46:15 Edloe 2:15 eight 6:7 11:3,3 20:16 eight-hour 24:25 either 11:15 17:17 45:23 employed 6:17 8:17 11:8,21,23,25 12:8,12 13:3,8,9 25:17 28:7 36:16 49:16,17 59:14 employees 46:24 employer 26:21 27:22 employers 22:25 23:14,22 24:8 employment 7:14 8:13,18,23 11:10 18:14 20:11 21:9 21:10 25:12 30:12 30:17 40:21 46:3 51:4,9 52:11 entering 38:1 enterprise 26:24 27:5 entertainer 15:3 entertainers 27:12 entire 26:5 48:11 52:11 entitled 20:20 21:5 entrance 38:1,8,14 entry 55:4 envelope 39:18,19 40:5 41:4,8,13 43:25 47:5,12 envelopes 40:10,14 41:16,18 47:2 error 9:1 34:15,16	F fact 12:20 19:4 29:20 30:11,15 33:25 38:25 44:2 facts 22:16 23:1,12 23:24 24:6 26:24 27:4,18 29:17 30:24,25 34:1 factual 31:10 37:22	G George 23:11 28:5 50:5,7 getting 16:20 25:6 25:7 26:9,11 42:6 girl 38:8 Girls 1:11 12:8 13:18 21:22,23 30:3 35:1 58:11 give 5:13 10:3,6 32:8 39:18,19 44:1 47:9 given 4:19 10:15 57:15 58:21 59:7 giving 5:1 56:2 go 5:7 12:4 18:11 25:23 32:6 38:25 39:3 49:2 goes 28:18 going 4:15,24 5:3 5:20 7:25 8:12 15:16 17:1,8,21 18:11,13 44:11,17 47:21 52:16 53:20 54:7 55:9 Gold 1:9 11:21 21:15,18 30:2 34:25 58:9 Good 4:7 grandfathered 25:17 26:2 Group 7:3 guess 20:1 29:19 36:25 guys 40:25	H half 11:3,4 19:4 20:16 25:2 hand 57:15	

46:8 47:2,6,13 48:9,12 51:24 52:7,12,20 54:25 55:3,4,10 59:5,11 60:5 huh-uh 5:7 hundred 19:11,15 19:17 20:2,5,25 25:10 32:16 42:20 43:3,6 H-09-3345 1:6 58:6	interrogatories 6:9 interrogatory 8:16 8:21 9:9,10 12:15 12:21,25 13:4 31:3,4,7 34:12 51:25 52:4 interrupt 50:21 intoxicated 34:10 introductory 5:19 involved 7:19 8:14 16:21 44:2,5 52:8 IRS 19:12 issue 5:20 12:23 22:4,15 issues 29:9	47:11,16 48:24 49:1 50:11,14,15 53:10,14 knowing 30:9 knowledge 25:20 25:22 26:16,17 30:1 34:24 37:5 47:3 50:3 51:20 known 57:9	liquidating 28:23 liquidation 50:2 list 52:4 listed 14:14 53:16 little 5:13 8:12 15:14 44:12 47:1 53:13 LLP 1:22 2:3 loans 41:19,23,25 LOLMS1@aol.c... 2:16 long 5:3 6:21 7:8 20:14 21:13,13,24 longer 44:17 45:6 look 44:24 Loop 1:23 2:4,10 loss 29:18	55:4 meaning 25:18 31:11 50:11 54:4 54:5 meant 18:11 23:18 mediation 55:6 Members 6:11 Memorial 60:19 mentioned 9:22 12:20 Millennium 11:17 mind 18:10 minimum 18:21 19:2 minutes 44:12 59:5 59:6 mistakes 29:12 Mitch 28:13,14 moment 12:10 26:21 moments 43:2 Monday 55:7 money 18:16 22:4,5 30:6 41:16 43:13 46:15 47:22 48:17 51:21 monies 47:5 MONSHAUGEN 2:9 months 6:22 7:9 Moreno 1:4 15:7 15:18 17:16 58:4 morning 4:7 Motion 6:11 move 46:4 MSHELLIST@... 2:6 Mutual 6:18
I identity 57:11 important 5:4,9 54:24 improper 20:11 21:25 includes 59:9 income 19:13 46:17 46:19,19 Incorporated 59:1 60:19 incorrect 12:25 13:11,15 36:4 INDEX 3:1 indicate 5:22 56:2 individual 1:11 34:1 58:11 individually 21:9 31:5 39:11 individuals 6:8 17:25 information 31:6 47:3 59:7 Initially 6:12 instance 1:17 39:7 instrument 57:12 insurance 6:20,24 7:3,5,16 integrated 26:23 27:5 intentionally 29:7 29:18 interested 16:6,20 59:17 interfere 23:18 interrelationship 9:20	J January 35:18 job 9:12,14 42:2,14 42:17,17 jobs 42:11 join 30:16 joint 22:25 23:13 23:22 24:8 26:21 judge 55:7 judgment 55:5 June 8:19 jury 1:10 5:2 58:10	L labeled 44:23 Labor 29:5,21 larger 38:18 largest 32:14 Laura 1:3 14:17 58:3 LAUREN 2:14 law 2:14 29:5 laws 29:9 lawsuit 6:3 7:19 14:15 15:10,18 16:4,19,22 17:1,9 17:19,25 18:12 21:10 22:24 23:22 26:19,22 27:10,14 29:4 30:8,11,16 37:16 43:1,5 44:2 44:5 53:14,16,21 54:10,16,19 lawyer 6:2 15:21 15:25 16:25 17:2 22:14 27:2 30:10 36:19 37:14,24 43:8 44:21 54:15 54:16 LAZARZ 1:22 2:3 led 36:15 legal 22:15 29:3 30:25 36:6 52:8 let's 51:4 liabilities 54:2,4,8 license 6:15,23 7:1 7:3,4,8 licenses 7:10 life 7:6,7 limit 40:22 limitations 30:20 line 56:2	M M 2:14 machine 1:21 10:6 39:4 majority 32:19,21 making 9:16 43:20 Man 47:18 manager 52:14 managers 28:11 43:12 47:20 49:10 51:1,6 manner 30:1 Margo 1:4 15:7,18 17:16 58:4 Mark 35:4 marked 35:6,8 Martin 2:3 3:4 59:6 59:10 Mason 6:13 materialized 53:21 McCray 1:4 15:5 58:4 McKnight 1:3 14:17 15:9,17 16:3 17:6,18 44:23,24 58:3 mean 9:23 14:18 18:20 21:17 26:3 29:16 30:9 31:5 32:3 37:14 39:4 41:12 50:21 52:6	N N 2:1 name 4:8 7:2 15:6 57:12 names 28:4,12 need 5:15,24 7:4 9:1 23:18 32:8 needs 9:9,10 neither 59:13 never 13:3 21:15

21:17,20,21,22,23 34:13 39:25 40:7 43:25 44:9,10 night 38:1 nightclubs 18:4 nights 16:15 nod 5:7 nods 9:8 50:16 normal 5:10 Normally 54:1 Norman 39:18,19 40:14 41:4 44:1 North 2:10 Notary 57:2,19 noted 57:2 notice 6:11 12:15 45:5 noticed 8:21 number 6:15 10:10 10:19 40:15 53:4 56:2,2 numbered 1:18	Oh 7:15 54:3 okay 4:22 5:9,17,22 6:1,4 7:7,24 8:1,5 8:9,14 9:11,19 10:1,8,13,25 11:5 11:14 12:23 13:12 13:19 14:6 15:16 15:21,22 16:8 17:5 20:9,17 21:8 22:11,16,24 24:4 24:13,16,21 26:9 26:13 27:3,16 29:16 31:25 32:4 37:21,25 38:25 40:9 42:13,19 43:4,21 44:18 45:5,17 48:5 50:17 51:14 54:10 55:8 once 9:2 37:24 38:25 ones 33:13,14 open 32:9 operated 35:20 36:25 37:1,5 opinion 47:24 48:6 oral 1:14,16 58:14 58:20 order 10:14 ordered 39:17 ordering 32:5 original 60:2,5,7 outcome 59:17 outs 46:15 oversight 12:21 overtime 18:21 owes 30:6 owned 23:4,6 35:19 35:23 36:2,10,13 owner 51:1 52:14 owners 51:7 ownership 23:9 24:1 owns 23:10	page(s) 57:2 PAGE/LINE 56:4 paid 10:22,23,24 14:12 18:22 19:17 19:19 20:2,5,17 20:20 21:5 24:11 24:14 25:7,20 26:9,11 27:17 36:17,21 37:11,12 38:17,17 39:1,8 39:11,23 42:4,20 43:10 49:13,23 paper 56:2 paperwork 9:18 10:5 18:13 paragraph 35:17 part 34:15 50:7 52:16 particular 10:16,20 12:3 parties 59:9,14 60:10 party 59:3 pass 46:8 52:18 55:10,12 patrons 49:12 51:11 pay 10:24 14:12 18:21,22,25 20:17 24:11,13,17,19 25:6,9,10,11,13 25:21,24 26:3,5,9 26:17 28:1,19 31:8,11,14,22,23 32:7,13,15,25 33:23 34:19,21 36:21 37:25 38:8 38:23 42:6 43:13 47:18 48:18 49:9 51:16,18,20 52:16 paying 25:23 pays 28:21 penalty 35:14 people 28:3 29:25 38:3 40:9,13 41:7 41:11 48:24 perceive 21:25 percent 19:11,15 19:17 20:1,1,3,6	20:19,25 22:9,13 22:17 25:10 28:20 37:11,12,17,20 39:14 42:20,25 43:3,6 46:21,23 50:1,8,9,12,12,13 52:14,15 percentage 19:10 19:22,25 24:16 performed 36:23 period 37:1 perjury 35:15 person 10:11 23:4 23:7 57:11 personal 26:16 30:1 34:24 37:5 47:3 personally 27:18 32:2,20,24 33:25 34:23 38:11 39:10 40:8 43:15 57:9 persons 23:4,7 Physicians 6:18 place 32:9 48:6 plaintiff 2:2 7:20 44:22 plaintiffs 1:5 14:14 31:4 58:5 59:10 please 4:7 10:2 22:7 27:24 28:12 35:5 38:20 56:2,3 point 24:19 25:6 29:20 34:8 policies 34:25 position 6:19 29:6 possible 19:6 post 37:5 potential 51:14 53:16 practice 41:9 practices 20:11 21:9,10 29:6,8,23 49:20,22,22 preparing 60:7 present 35:1 presented 23:24 previous 8:4 57:2 previously 25:16 print 39:5	prior 12:6 14:2 16:13 probably 8:25 17:19 50:19 problem 5:18 Procedure 1:24 proceeding 53:17 54:8,12,21 59:15 proceedings 52:8 process 5:4 23:18 processing 9:17 28:1,19,21 50:19 produced 1:16 44:20 46:1 Production 44:21 45:25 property 7:5 54:4 protocol 48:6 proved 57:9 provisions 1:25 Public 57:2,19 purchases 10:4 purposes 57:14 pursuant 1:24 59:7 59:18 pursue 17:1,24 pursuing 16:6,23 P.C 2:9
<hr/> O oath 4:23 13:2 36:13 57:10 object 17:21 18:5 20:22 22:19 23:2 23:16 27:6 28:25 29:13 30:22 36:5 37:7 42:22 45:12 45:20 47:6 48:9 54:22 objection 23:15 47:13 objections 4:16 observed 48:1 obviously 9:16 occasion 12:16,18 13:22,25 14:6 occur 48:5 occurred 59:19 occurrence 47:25 47:25 48:4 office 57:15 officer 58:20 59:8 60:2 officer's 60:6 offices 1:22	<hr/> P P 2:1,1 page 3:5,9 35:12,18 40:25 56:2,3 60:4	<hr/> Q question 5:12,15,20 5:25,25 18:6,11 23:19,20,24 29:14 30:23 36:6 37:8 42:23 48:10 50:20 questions 4:5,24,25 4:25 5:5 6:2 15:16,19 30:25 44:17 46:9,12 52:20 55:10 quit 24:19 46:4,6,7 53:12 quite 5:10 Q&A 59:1 60:19	<hr/> R R 2:1 RACHAEL 1:4 58:4 Rachel 15:2	

<p> random 47:25 RANKIN 1:9 58:9 rarely 33:18 rate 25:7 reached 16:18 17:19 read 50:5,6,7,10 57:1 ready 44:12 really 24:24 29:10 40:22 reason 27:22,25 46:18 56:2,4 reasons 60:4 recall 34:5 receipt 39:5 receive 43:5 46:14 46:17,18 received 19:1 51:21 recognize 8:25 35:10 record 1:25 4:8 9:2 23:17,19 58:21 59:9 refer 37:24 43:7 refill 10:14 reflects 44:1 regard 29:23 regarding 21:10 30:1 34:2 35:1 Registration 60:21 regular 32:12 48:1 relate 34:1 related 59:14 relationship 9:23 relies 10:18 remember 20:15 24:22 51:25 repayment 41:19 41:23 Repeat 23:20 report 19:12 reported 1:21 reporter 1:20 4:24 5:15 35:8 58:16 59:23 Reporter's 1:13 3:6 58:13 Reporting 59:1 </p>	<p> 60:19 represent 6:6 Request 44:20 45:25 require 34:21 required 31:8 34:18 43:25 44:3 44:7 requirements 59:18 reserve 4:15 response 44:20 46:1 responsible 31:20 32:1,7 responsiveness 4:16 result 38:11 53:23 return 47:5 59:1 returned 60:2,3,5 right 5:19 6:8,11 7:25 10:22 11:2 11:16,16,17 12:21 16:17,18 17:15 21:3,6,7,14,15 22:2,3 23:23 24:2 25:4,16,19 26:6,7 32:6 33:24 34:9 35:22 36:22 37:6 37:19 39:16 40:2 40:6 41:12 42:15 43:3 45:8,24 48:7 52:7 53:3,12 54:20 Rita 1:19 58:16 59:23 60:15 Road 6:13 round 32:11 Rule 59:18 60:1,9 Rules 1:24 4:14 16:1 run 9:25 10:5 33:7 running 32:2,5 47:13 <hr/> S <hr/> S 2:1 57:5 safe 17:18,23 saw 38:5 40:9 41:2 </p>	<p> 47:2 saying 40:3 42:13 42:16 says 8:17 13:3 18:12 35:14 36:17 36:23 38:16 39:17 40:9 scenario 31:21 Scrivener's 9:1 seal 57:15 seated 10:9 31:16 32:4 second 35:17 53:5 see 8:16 14:3 35:17 35:20 38:18,19 40:13 42:1 seen 44:25 45:1 sell 7:4 sent 44:21 sentence 36:3 SERPER 2:14 serve 53:7 served 10:9,11 31:13,17 60:9 server 7:13,15,16 set 29:8 44:19 48:3 sheet 56:2 sheets 45:3,5 Shellist 1:22 2:3,3 3:4 4:10,14 17:21 18:5,8 20:22 22:19 23:2,15 27:6 28:25 29:13 30:22 36:5 37:7 40:20,24 42:22 44:14 45:12,20 46:9,12 47:9,14 47:17 48:11 52:18 54:22 55:2,12 59:6,10 shift 10:24 11:1,2 14:12 18:22,25 19:7,19 20:7,8,15 20:17,19 21:4 24:11,13,17,19,25 25:6,9,10,11,12 25:21,24 26:3,5,9 26:17 36:21 39:9 42:6 46:22 </p>	<p> shifts 11:5 20:4 shorthand 1:20,21 58:16 59:23 shortly 18:12 shown 60:10 sick 12:4,12 sign 10:7 56:3 signature 3:5 35:12 56:1 57:1 58:24 60:3 signed 6:10 significance 45:11 signing 57:2 single 26:23 27:5 sir 4:21 5:8 6:25 7:18,21 8:2,11,15 8:20 9:6 10:17,21 11:9,22,24 12:9 13:21,24 14:8,16 14:19 15:11 19:16 20:18 21:16 22:6 23:8 24:9 25:8 28:9,22 32:24 34:4 35:3,11,13 35:21 38:2 40:11 41:17 46:2,10 50:6 52:2,23 sit 18:13 sitting 24:6 27:3 52:3 situation 4:22 41:13 54:1 six 6:8 14:14 22:25 23:6,22 25:2 slips 10:7 solution 51:14 somebody 12:4 31:11 51:15 soon-to-be-ex-wife 52:24 sort 5:19 38:11 South 1:23 2:4 6:13 SOUTHERN 1:1 58:1 specifically 10:24 31:5 54:11 speculation 48:9 spillage 34:19,22 Splendor 1:10 </p>	<p> 11:25 12:10,13,19 12:20 13:22 20:9 20:11 21:2,5,24 30:2 34:25 36:24 58:10 standard 41:9 48:3 49:2 Standards 29:5 start 4:10 15:24 started 14:4 15:15 24:19 state 1:21 4:7 6:23 7:11 12:16,18 57:5,20 58:17 59:24 stated 1:25 STATES 1:1 58:1 status 54:21 statute 30:19 stayed 26:7 Ste 2:10,15 stipulate 4:13 stipulated 4:18 stipulations 4:11 stopped 9:2 52:13 53:10 straighten 9:11 straightforward 5:4 strike 46:25 47:10 stuff 17:8 subjected 20:10 39:22 submitted 58:22 subpoena 53:8 subscribed 57:12 suffer 38:10 suffered 38:11 Suite 1:23 2:4 60:19 support 23:1,13,25 24:7 26:24 27:4 27:19 supposed 16:1 surcharge 50:23 sure 9:7 12:3 13:1 15:6 19:6,25 27:2 36:8,19 37:15 38:15 40:15,19,25 </p>
--	---	--	--	---

43:7 44:14 49:4,8 49:11,15 51:10 53:25 54:9 surprise 36:9,12 swear 35:14 swore 34:14 36:13 sworn 1:17 4:2 43:10 58:19	term 51:9 terminated 46:6 testified 4:2 37:4 testimony 5:2 23:5 32:21 42:19 43:24 58:21 59:8 Texas 1:1,21,23,24 2:5,10,15 6:13,16 6:24 7:11 57:20 58:1,17 59:24 60:15,20 Thank 55:13 theoretically 40:3 therefor 60:4 thing 20:13 things 24:2 think 7:3 11:16 12:7 18:15 22:17 24:5 30:6 37:16 42:11 48:12,12 54:23 thinking 13:17 21:8 third 35:12 Thomas 2:9 3:3,4 59:5,11 60:5 thought 9:11 three 6:22 7:9,23 30:16 throw 15:23 Thursday 55:6 till 4:16 time 4:17 11:14 12:12 15:12 16:14 19:2,4 21:13,24 26:5 32:19,22 37:1 41:2 45:6 51:8 53:12 55:13 59:3,8 times 7:22 28:15 33:10 40:13,16 tip 22:9 46:14,21 tipped 46:19 tips 18:16,23,25 19:8,12,18 20:3,5 20:20,25 21:4 22:5 28:21,24 37:18,19 38:18 39:12 42:20 43:6	52:15 title 35:9 today 5:3 6:1 24:6 27:3 52:3,9 told 13:2 16:19 27:20,21 28:2,3 28:10 29:25 38:3 39:25 41:7,11,13 47:10,11 49:5 51:2 52:9 topless 27:12,17 Tower 1:22 2:4 track 10:10,15,19 31:18 traffic 52:5 trained 7:13 training 7:15,15,17 transaction 27:16 43:11 transactions 19:22 19:24,24 30:3 transcript 58:20,22 60:7 TRCP 59:19 60:1 Treasure 30:6 Treasures 1:7 8:17 8:23 9:3,12,15,20 9:21 10:22 12:17 12:19 13:19 14:2 17:2 20:13 21:11 24:11 25:23 26:14 27:11 29:4,6,17 29:22,22 30:5,13 30:17,21 31:7 34:18,21 35:19 38:14 45:9,18 46:3 48:21 49:17 49:24 50:3 51:5 53:13 58:7 treated 44:4,5 trial 1:10 4:17 58:10 trick 18:11 Trish 17:11 Trisha 1:3 14:23 15:17 58:3 Trophy 1:9 11:23 21:20,21 30:2 34:25 58:9	true 35:15 38:4 57:1 58:21 truth 4:23 13:16 52:9 trying 13:14 turn 11:17 47:16 Turner 1:3 14:23 15:18 17:11 58:3 two 6:8 7:23 30:12 32:17 type 4:24 5:15,16 7:4 48:3 typically 46:21 typing 5:5	violation 52:5 violations 30:7
T				W
T 57:5 tab 31:11,14,22,23 32:2,5,9,13,14,22 32:23 33:6 51:12 51:15 TABC 7:15 table 10:20 31:16 tabs 9:21 31:8,25 33:19,22 34:2 35:2 37:12 take 32:11,11 44:24 53:5 taken 1:17 4:15 22:5 59:8,16 talk 5:9 8:12 16:5 16:25 17:2 36:19 37:14 49:6,9,12 49:19 talked 15:9,12,20 16:4,14 17:9,12 17:17 22:4 26:21 34:3,5,7 47:1 49:14,14 51:25 52:12 talking 5:16 21:1 33:13,21 40:20 48:24 52:1 talks 31:4 TBA 60:7 telephone 2:5,11 16:12 17:7 53:4 60:20 tell 4:23 16:19,22 23:17 28:6,14,17 41:10 46:24 47:4 50:17,22 51:1,2 52:3,14 54:23 telling 15:24 ten 11:3,3 40:17,19				wage 10:23 18:7,17 18:20,21 19:2 22:3 24:20 29:5,8 29:9,18,23 30:7 wait 38:17 waiter 10:9 waitress 10:10,12 10:13,15 14:21 15:8 31:14,17,17 31:18,22,24 41:3 42:12 43:12 46:17 49:18 waitresses 9:21 10:19 25:20 26:10 38:16 42:1,5,9,14 42:17 43:4,16 44:2,5 46:15,22 47:4 49:12 waitress's 43:19 walk 31:25 32:14 32:22 33:19,22 34:2 35:1 walked 31:8,11,14 31:22,23 walks 31:21 want 4:10 15:19,23 15:24 16:2 49:4 51:3 54:23 wanted 40:24 wasn't 30:16 33:8 39:8 40:22 was/was 60:2 way 14:4 23:16 24:2 30:9 42:4 44:4 45:18 Wayne 4:9 week 11:6 53:21 55:1,5 went 38:23 49:3 weren't 36:17 42:4 West 1:23 2:4,10 We'll 55:12 we're 4:15 5:2 33:21 we've 22:4 44:23
			U	
			uh-huh 5:7 33:17 Underneath 35:14 understand 5:21,22 22:11,21,23 25:5 29:11 55:2 understanding 23:6,9 38:6 Understood 40:24 UNITED 1:1 58:1 unlawful 22:12,18 38:13 39:15 45:19 unsure 27:3 use 45:4 usual 20:12	
			V	
			V 1:6 58:6 Van 2:9,9 3:3,4 4:5 4:12,18,19 17:24 18:10 20:24 22:21 23:5,21 27:8 29:3 29:16 31:2 35:4,7 36:9 37:10 40:22 41:2 42:24 44:11 44:16,19 45:14,23 46:8 47:2,6,13 48:9,12 51:24 52:7,12,20 54:25 55:3,4,10 59:5,11 60:5 versus 24:17 26:17 violate 29:9 violated 29:7 violating 29:18	

WG 1:9 58:9	y'all 16:4 17:13	200 2:15	6
whatsoever 51:23	42:4 55:4	2000 11:12,15	640 2:10
white 47:2,5		2005 12:6,7,11	7
withheld 28:20	\$	13:23 20:10 30:4	
50:1	\$200 33:22	35:1	713 60:20,21
witness 1:16 3:5	\$25 32:23	2006 8:19,22 9:3	713.621.0993 2:6
9:8 44:18 46:8	\$30 11:1 20:17	2007 8:24 9:3,5	713.621.2277 2:5
50:16 52:18 55:11	24:25 32:18	13:20 35:18	713.880.2992 2:11
55:12 56:1 58:19	\$5 48:19 49:13	2008 45:6	713.880.5297 2:11
58:21,23,24	50:17	2010 1:15,19 58:15	77008 2:10
wondering 18:12	\$5,000 38:22	58:23 59:2,21	77024 60:20
words 29:8	\$500 47:18	60:2,11	77027 1:23 2:5,15
work 6:18,24 11:5	0	203 59:19 60:1	77449 53:9
11:14 12:16,18	07 9:4	203.3 60:9	77450 6:14
13:17,22,25 14:6	1	22 60:19	7847 59:24 60:15
21:11 36:23 38:9		22530 53:9	8
worked 6:21 12:23	1 3:10 33:22 35:4,6	24 44:23	8 59:6
13:5,19 14:2,9,9	35:8 52:24 59:5	24028183 60:7	85 20:1
16:15 17:13 20:9	10:09 1:19 4:6	2405 2:15	
21:2,15,18,20,21	100 20:19	25 32:18 59:5	9
21:22,23 26:6	10220 60:19	25-dollar 48:14	90 20:1,1
35:18 36:18 37:2	11 1:15 58:15	28 44:24	95 14:4
42:2 45:6,9 51:5	11th 1:18	281-748-7786 53:6	99 11:18 14:4,5
52:22	11:16 44:15	3	
working 9:2 12:19	11:36 44:15	3 9:10	
28:15 52:13 53:10	11:40 46:13	3D/International	
53:12	11:48 52:21	1:22 2:4	
wouldn't 17:20	11:52 1:19 55:15	35 3:10	
32:8,10,11 36:12	11247890 6:16	4	
39:6 41:14 51:18	12-31-2011 59:25	4 50:8,12	
W.L 1:10 58:10	60:16	402 60:21	
X	1225 2:10	46 3:4	
X 57:5	13 31:3,4	467-7900 60:20	
Y	15 34:12 46:23	467-7911 60:21	
yeah 5:18,23 9:23	150 19:9	5	
13:13 15:8 17:23	175 19:9	5 3:3 22:9,12,17	
18:19 20:25 21:19	178 6:13	28:20 37:10,12,17	
22:23 25:1 32:18	1900 1:23 2:4	37:19 39:14 42:25	
32:20 38:21 42:9	1910 1:23 2:4	50:1,9,12,13	
43:3 45:1 47:14	1995 8:19 28:8 37:1	52:15	
54:3 55:6	1999 11:13,15 14:7	5-dollar 49:9,23	
year 15:14 16:3,16	35:18 37:1,5	50:22 51:7,18	
33:10,11,18,19,22	2	52 3:4	
51:4	2 3:2 9:9 52:25 53:1	56 3:5	
years 11:19,20	2.13 24:15,17,24	565 6:13	
29:21 30:12,16	26:11,17 42:5	58 3:6	
41:6	2.17 19:5		
YORK 1:10 58:10	20 40:18 44:12		